IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

Tuesday, the Twenty sixth day of October, two thousand and four

Present:

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No. 19174 OF 2003

Between:

1. The Depot Manager, A.P.S.R.T.C., Hanamkonda Depot.
2. The Regional Manager, A.P.S.R.T.C., Warangal.

…Petitioners

And

1. B.Chandraiah S/o Ramalingaiah, Conductor, H.No.2-6-1442, Ashok Colony, Hanamkonda, Warangal District.
2. The Industrial Tribunal-cum-Labour Court at Warangal.

…Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records relating to the Award in I.D.No.1/2001 dated 18-9-2002 on

the file of the Labour Court, Warangal and quash the same as arbitrary and illegal by way of issue of a writ of certiorari.

For the Petitioners: Smt.G.Jyothi Kiran, Advocate.

For the Respondent No.1: Smt.P.Rajani Reddy, Advocate.

For the respondent No.2: None appeared.

The Court made the following :

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ORDER:

The Andhra Pradesh State Road Transport Corporation (APSRTC) questions the Award of the Industrial Tribunal-cum-Labour Court, Warangal, dated 18-9-2002, made in I.D.No.1 of 2001.

The first respondent was appointed as Conductor in the year 1990. On 23-10-1997, while he was conducting a bus on route Hasanparthy to Kazipet, check was exercised by the checking officers at stage No.17 and found that certain irregularities said to have been committed by the first respondent and a charge sheet dated 25-10-1997 has been issued. The first respondent submitted his explanation denying the charges. As the explanation was not satisfactory, charges have been framed and enquiry has been conducted. In the enquiry report, it is stated that charges were proved and basing on the said enquiry report, a show cause notice of

removal dated 5-1-1998 was issued and the first respondent was removed from service on 27-1-1998. Aggrieved by the same, the first respondent filed an appeal before the appellate authority and thereafter, he filed a review petition before the Reviewing Authority. The Reviewing Authority passed an order on 6-6-1998, reinstating the first respondent into service as fresh conductor.

I have perused the order of the Reviewing Authority, dated 6-6-1998. The order of the Reviewing Authority clearly shows that the passengers who were traveling in the bus are going to attend the funeral and they are in great hurry, which resulted the said mistake. In fact, the passengers owned responsibility for their mistake and accordingly, they have paid the penalty of Rs.50/-. The first respondent in his explanation also clearly mentioned the said fact, which was supported by the statement of the passengers. It is further stated in the review order that the personal record of the first respondent from 1990 had been maintained fairly good and therefore, it is a fit case where an opportunity is to be given to the first respondent to serve the organization and accordingly, he was appointed afresh.

Questioning the said order, the petitioner raised an Industrial Dispute. Two charges were framed against the first respondent, they are (1) for having failed to collect the fare and issuance of tickets to a batch of ten lady passengers (eight adults + two children aged 8 year girls) who have boarded the bus at Hasanparthy-stage No.19 and found alighting without tickets at Yerragattugutta-stage No.17; (2) for having failed to close the tray numbers of all denominations in S.R., against Stage No.17.

In so far as the first charge is concerned, the Labour Court held that no other irregularities have been detected by the TTIs., and even those alighting passengers having categorically admitted in their spot statements that in their hurry to attend a funeral, they committed mistake and they have paid the penalty of Rs.50/- and bus fare of Rs.20/-, it is the only mitigating circumstances in favour of the

petitioner (first respondent in the writ petition), but it is only violation of Circular No.8 of 1992, dated 17-3-1992, and therefore, the charge for violation of the said Circular, read with Regulation 28(xxxii) is proved.

In so far as the second charge is concerned, the Labour Court held that the second charge is not proved. Since the first charge is not proved in its entirety and if at all there is any guilty on the part of the workmen, it is trivial in nature and it is not a serious cash and ticket irregularity. Under those circumstances, the Labour Court was of the opinion that the punishment imposed on the workmen for re-appointment as a fresh conductor appears to be shocking and disproportionate to the charges proved. Accordingly, the removal order from service and the modified order of re-appointment as a fresh conduct has been set aside and the workmen is directed to be reinstated and substituted the punishment with deferment of two annual increments with cumulative effect from the date of suspension till the date of Award with continuity of service.

I have perused the relevant records and the Award. In the cross examination before the enquiry officer, the TTI-G.S.Rao admitted that they have checked only alighting passengers at stage No.17 before the T.I.C., point, which did not attract Regulation 28(vi)(a) of APSRTC., Employees (Conduct) Regulations 1963 and the TTI., has imposed the penalty of Rs.50/- to the passengers and also collected fare. In the spot statement, the passengers categorically stated that they are in hurry to attend the funeral and they committed a mistake and there is no mistake on the part of the conductor. Therefore, I am of the opinion that the punishment imposed on the workmen appointing him afresh is dis-proportionate to the charges proved and I do not see any incurable defect committed by the Industrial Tribunal-cum-Labour Court to interfere with the said Award. The Writ Petition is devoid of merits.

Accordingly, the Writ Petition is dismissed. No order as to costs.

V.ESWARAIAH, J

Date:26-10-2004.

Shr.

Asst. Registrar.

Copies to:

1. The Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court at Warangal.
2. Two CD Copies.